

1 ALDEN F. ABBOTT
2 Acting General Counsel

3 MEGAN COX
mcox1@ftc.gov
4 ALLISON M. LEFRAK
alefrak@ftc.gov
5 Federal Trade Commission
6 600 Pennsylvania Avenue NW
Mailstop CC-8256
7 Washington, DC 20580
202-326-2282 (Cox)
8 202-326-2804 (Lefrak)
202-326-3395 (Fax)
9 *Attorneys for Plaintiff Federal Trade Commission*

10 ADAM PAUL LAXALT
11 Attorney General
LAURA TUCKER
12 Senior Deputy Attorney General, Bureau of Consumer Protection
Office of the Attorney General
13 100 North Carson Street
14 Carson City, NV 89701-4717
Phone (775) 684-1244
15 Facsimile: (775) 684-1170
Email: LMTucker@ag.nv.gov
16 *Attorney for Plaintiff State of Nevada*

17 **UNITED STATES DISTRICT COURT**
18 **DISTRICT OF NEVADA**

19 FEDERAL TRADE COMMISSION,

20 and

21 STATE OF NEVADA,

22 Plaintiffs,

23 v.

24 EMP MEDIA, INC., *et al.*,

25 Defendants.
26
27

Case No. 2:18-cv-00035

**DECLARATION OF
PLAINTIFF'S COUNSEL**

I, Megan Cox, hereby declare as follows:

1. I am a citizen of the United States and am over eighteen (18) years of age
2. I have personal knowledge of the facts stated herein and if called as a witness, could competently testify thereto.
3. I am one of the attorneys representing Plaintiff Federal Trade Commission (“FTC”) in this action. I am a member in good standing of the bar of Massachusetts.
4. On January 9, 2018, Plaintiffs the Federal Trade Commission (“FTC”) and the State of Nevada filed a complaint in the United States District Court for the District of Nevada naming EMP Media, Inc., Aniello “Neil” Infante, and Shad “John” Applegate, also known as Shad Cottelli, as defendants (the “Complaint”). The Complaint alleged violations of Section 5 of the FTC Act, 15 U.S.C. § 45, and Chapter 598 of the Nevada Revised Statutes. ECF No. 1.
5. The Clerk of the Court issued summonses for Defendants EMP Media, Inc., Shad “John” Applegate, and Aniello “Neil” Infante, on January 9, 2018. ECF No. 5.
6. On January 10, 2018, the Court entered the Stipulated Order for Permanent Injunction and Monetary Judgment as to Defendant Aniello Infante. ECF No. 9.
7. On January 12, 2018, Defendant EMP Media, Inc. was served the summons and the Complaint through its registered agent, Aniello Infante. A Proof of Service was executed and subsequently filed with the Court on March 16, 2018, attesting that Defendant EMP was properly served. ECF No. 20.
8. On January 26, 2018, Plaintiffs filed a motion for authorization to use alternative service of process on Defendant Cottelli. ECF No. 12.
9. The Court entered an order granting the motion for authorization to use alternative service of process on Defendant Cottelli on February 1, 2018. ECF No. 16.
10. On February 2, 2018, Defendant Cottelli was served the summons and the Complaint through the alternative service of process ordered by the Court. A Proof of Service was executed and subsequently filed with the Court on March 16, 2018, attesting that

1 Defendant Cottelli was properly served. ECF No. 21.

2 11. Neither Defendant EMP, nor Defendant Cottelli have answered or filed a responsive
3 pleading to the Complaint.

4 12. The time within which Defendant EMP could answer or otherwise move as to the
5 Complaint has expired, pursuant to Federal Rule of Civil Procedure 12(a)(1)(A)(i).

6 13. The time within which Defendant Cottelli could answer or otherwise move as to the
7 Complaint has expired, pursuant to Federal Rule of Civil Procedure 12(a)(1)(A)(ii).

8 14. The time for Defendants to answer or otherwise move as to the Complaint has not been
9 extended by the Court.

10 15. Neither counsel for the FTC, nor counsel for the State of Nevada has received any notice
11 that an attorney has entered an appearance in this action on behalf of either Defendant.

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13 I declare under penalty of perjury that the foregoing is true and correct.

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15 Executed on this 10th day of May, 2018.

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17 /s/ Megan Cox
18 MEGAN COX
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